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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,132	11/26/2003	Gerald Duhamel	14296-23US-1 CMB/ld	4651
31831 7590 08/27/2007 LABTRONIX CONCEPT INC. C/O OGILVY RENAULT 1981 MC GILL COLLEGE AVENUE SUITE 1600 MONTREAL, QUEBEC, H3A 2Y3 CANADA			EXAMINER DHILLON, MANJOT K	
			ART UNIT 3714	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/722,132

Applicant(s)

DUHAMEL ET AL.

Examiner

Malina K. Dhillon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/13/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is in response to applicant's response filed on May 29<sup>th</sup>, 2007.

Applicant amends claims and responds to rejections. Claims 1-40 are pending.

### ***Claim Rejections - 35 USC § 112***

1. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. "Negative end-of-game criterion evaluation" is not shown in the specification and therefore is new matter.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2-8, 12, 13, 22, 34 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Banyai (US 2001/0034262 A1).

Concerning claims 1 and 22, Banyai teaches a method and system of playing a participation game played until determination of a winner, said method comprising:

receiving a request for a play of said game **[0006]**; associating a current draw result with said request **[0007]**; associating a game card with said request **[0008]**; comparing said game card with said current draw result to evaluate fulfillment of an end-of-game criterion **[0009]**; providing said game card and said draw result in response to said request **[0007]**; and preventing comparison of said current draw result with a new game card upon a positive end-of-game criterion evaluation, while maintaining the current draw for a further play request upon a negative end-of-game criterion evaluation **[0010]**.

Banyai teaches a system for distribution of game-related information wherein said game-related information allows the play of a participation game ending with the determination of a winner, said system comprising; draw generation means generating a draw result **[Fig. 1 item 16]**; a draw register storing said draw result **[Fig. 1 item 16]**; card distribution means providing a game card upon request **[Fig. 1 item 14]**; request handling means receiving said request **[Fig. 1 item 10]**, associating said game card and said draw result with said request **[Fig. 1]**, and responding to said request by transmitting to the requesting player said game card and said draw result **[Fig. 1 items 14, 16]**; and end-of-game evaluation means comparing said game card with said draw result based on an end-of-game criterion and signaling a game state change upon fulfillment of said end-of-game criterion, the end-of-game evaluation means not signaling a game state change when the end-of-game criterion is not fulfilled **[Fig. 1 items 18, 26, 28, 30, 32]**.

Concerning claim 2, Banyai teaches said end-of-game criterion comprises a unique criterion associated with a unique end-of-game prize **[Fig. 1 items 24, 22]**.

Concerning claim 3, Banyai teaches identifying a winning game card upon a positive evaluation of said end-of-game criterion **[Fig. 1 items 18, 20]**.

Concerning claim 4, Banyai teaches signaling the end of said game upon a positive evaluation of said end-of-game criterion **[Fig. 1 item 20]**.

Concerning claims 5, 6, and 40 Banyai teaches initiating a new draw result or game upon a positive evaluation of said end-of-game criterion and reception of the first play/game request for a game **[Fig. 1 items 10, 20, 30]**. After the game is over, the player then starts over and places a wager.

Concerning claim 7, Banyai teaches generating a game card in response to said request **[0006/0007]**.

Concerning claim 8, Banyai teaches randomly selecting a game card among a set of game cards upon reception of said request for a play **[0034, lines 1-8]**.

Concerning claims 12 and 13, Banyai teaches comparing said game card with current draw result based on prize criteria; and awarding prizes to a player on said comparison of said game card with said current draw result, further comprising associating at least one of said prize criteria with said end-of-game criterion **[0043]**.

Concerning claim 34, Banyai teaches a plurality of draw registers with each one of them being associated with a different game title **[0030]**.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 8-27, 28-33, and 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banyai (US 2001/0034262 A1) in view of Itkis et al. (US Patent Publication 2002/0094860, hereinafter "Itkis") and the Kentucky State Gaming Regulations. Banyai lacks teaching details of card storage means, validation methods, and communication with central server. The publication to Itkis discloses a fully automated bingo session.

Regarding at least claims 2-5, 12-14, and 35, Itkis discloses unique end of game criterion associated with a unique prize, such as one prize amount for a simple BINGO and another prize amount for a specific pattern; identifying a winning game card, [0014], issuing a prize and associating prize with end of game criterion, [0014]; positive end of game criterion signals the end of the game, worded a different way, the game state changes to "end of game", [0014], positive end of game criterion starts a new game, [0014], generating a game card in response to a request to play a game, [0048].

Regarding at least claims 8-11, Itkis discloses selecting a game card from a set; generating and storing a set of game cards, retrieving game card from set, flagging winning cards **[0042/0057/0061]**.

Regarding at least claims 15 and 16, Itkis discloses that at least one or as many as all steps can be remote, **[0012]**.

Regarding at least claims 17-20, Itkis discloses that players must validate their tickets to get a prize, this validation would determine that they are a winner; this validation completes that session for them; the validation process does not prevent new requests from taking place, **[0015/0016]**.

Regarding at least claims 23-27 and 29-32, Itkis discloses a draw communication means and card drawing means, **[Fig. 1 items 2, 9, 33, 44, 129]**; card communication means, **[Fig. 9]**; archiving means, **[Fig. 9 items 4, 38, 40]**; card storage and distribution means, **[Fig. 9 items 4, 38, 33]**; card generation means, **[0042]**; the system comprises more than one entity, the generation and handling means forming one of the entities, **[Fig. 1 item 2]**; draw generation means is a bingo blower, **[Fig. 1 Item 9]**; prize evaluation means, remotely connected to request handling means, **[Fig. 1 Item 2]**.

Regarding claim 33, Itkis does not explicitly disclose monitoring jackpot prizes, however Itkis does disclose monitoring prizes in general on both a TV monitor as well as a portable monitor. It is well known in the art that a Jackpot prize or progressive prize is common to all forms of gaming, including keno, bingo, slots, and lotteries (such as power ball).

Regarding at least claims 36 and 37, Itkis discloses a criteria evaluations means, that can use criteria to validate a win, **[Fig. 1 Item 12 and 7]**, in communication with an end of game evaluation means, **[Fig. 1, Item 2]**.

Regarding claim 38, Itkis discloses that once a winning card has been found play is suspended on that gaming session, upon validation and collection of winnings that particular gaming session would officially then be over **[0014/0049/0050]**.

Regarding claim 39, Itkis discloses constantly monitoring all active cards in a set for potential winning, if no card fulfills the end of game criteria, that state of the game is noted and subsequent draws occur until a card meets the end of game criteria **[0057]**.

It would have been obvious to combine the teachings of Banyai with the teachings of Itkis because all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Banyai in view of Kentucky State Gaming Regulations. Regarding claim 21 Banyai does not explicitly disclose limiting the time for game validation. The Kentucky State Gaming Regulations not only disclose, but also mandate that lottery tickets will have limited time for validation. 154A.110 (2) (e). It would be obvious to one of ordinary skill in the art at the time of the inventions to combine the matching number game of Banyai with the Kentucky State Gaming Regulations, as law would require it.



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7. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis in view of the Kentucky State Gaming Regulations. Itkis does not explicitly disclose preventing duplicate cards. The Kentucky State Gaming Regulations has a specific rule for when two players are both owed a prize, that they must split the winnings. 154A.110 (2) (d). Itkis discloses in 0017 that it is important and a goal of the invention to attract players to the casino. It would be obvious to one of ordinary skill in the art at the time of the invention to prevent the duplication of cards in the Itkis system in order to insure that "high-rollers" and other players will not have to share prizes with anyone and therefore better attract them to a certain casino.

8. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Malina K. Dhillon whose telephone number is (571) 270-1297. The examiner can normally be reached on Mon. - Thurs., 7 AM - 6 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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